



Bureau of Industry and Security – Updates on Changes to the Export Administration Regulations in 2021

January 28, 2022



Overview

- Emerging and Foundational Technologies
- Country Policy
- Entity List
- Other Actions



Emerging and Foundational Technologies

- To date, BIS has published controls on 38 emerging technologies in five rules: 84 FR 23886, 85 FR 36483, 85 FR 459, 85 FR 62583, and 86 FR 54814.
- 2021 rules on emerging technologies:
 - October 5, 2021 (86 FR 54814) multilateral controls on nucleic acid assembler and synthesizer “software”
 - October 26, 2021, (86 FR 59070) an advanced notice of proposed rulemaking on for Brain Computing Interface (BCI)
- Foundational technologies



Country Policy

- **Burma**

- February 18, 2021, implemented sanctions in response to the Burmese military coup d'état; restrictions specific to Burmese military and security entities
- March 8, 2021, implemented additional sanctions, including implementation of military end-use/end-user controls
- April 9, 2021, implementation of military intelligence end-use/end-user controls



Country Policy

- Sudan
 - January 19, 2021, implemented rescission of Sudan's status as a designated state sponsor of terrorism
- Russia
 - March 18, 2021, implemented of Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (CBW Act) Sanctions
- Cambodia
 - December 9, 2021, implementation of more restrictive treatment on the export, reexport and transfer of items subject to the EAR



2021 Entity List

- Added more than 150 parties for acting contrary to the national security or foreign policy interests of the United States.
 - As of the end of 2021, there are over 1,800 entries on the Entity List in 79 country locations.
- On August 20, 2020, clarified the Entity List's supplemental licensing requirements to state that these end-user controls apply to any listed entity when that entity is acting as a purchaser, intermediate or ultimate consignee, or end-user as defined in the EAR.
 - Impacts not only Huawei, but all parties on the Entity List.
- Foreign-Produced Direct Product Rule and the Entity List
 - Imposed a new control over certain foreign-produced items, when there is knowledge that such items are destined to a designated entity on the Entity List. A foreign-produced item is subject to this control if the entity for which the item is destined has a footnote 1 designation in the Entity List. This rule also applied the control to Huawei Technologies Co., Ltd. (Huawei) and its non-U.S. affiliates listed as entities. BIS requested and received comments on the impact of this rule and is reviewing them.



Other Actions

- Termination of the UAE's Boycott of Israel
 - On June 9, 2021, implemented amendments reflecting the United Arab Emirates' termination of its participation in the Arab League Boycott of Israel
- Information Security Controls: Cybersecurity Items
 - On October 21, 2021, requested public comments on revised controls on cybersecurity items
- Proposed Modification to License Exception Strategic Trade Authorization (STA)
 - On October 22, 2021, proposed to clarify and expand the restrictions on the availability of STA



Other Actions

- Unmanned Aerial Systems (UAS)
 - On January 12, 2021, implemented changes to the license review policy for UAS to reflect revised United States UAS export policy
- Regimes
 - Wassenaar Arrangement – March 29, 2021, implemented changes agreed at the December 2019 plenary meeting.
 - Australia Group - January 7, 2021, implemented the decisions made at the June 2019 Australia Group (AG) intersessional implementation meeting, and those later adopted pursuant to the AG's silence procedure.



Other Actions

- Expansion of Certain End-Use and End-User Controls and Controls on Specific Activities of U.S. Persons
 - On January 14, 2021, implemented the provisions of ECRA by:
 - imposing additional license requirements for exports, reexports, and transfers (in-country), as well as specific activities of U.S. persons, in connection with certain MEUs and MEUsers;
 - clarifying that license requirements under the EAR for specific activities of U.S. persons apply even when the items at issue are not subject to the EAR;
 - establishing restrictions on transactions intended to circumvent license requirements for listed entities; and
 - expanding the scope of activities subject to chemical and biological weapons and rocket systems and unmanned aerial vehicles end-use controls.
 - The rule was effective March 16, 2021.